

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

LAMONT W. NUNN,

Defendant-Appellee.

---

UNPUBLISHED

March 4, 2004

No. 244803

Washtenaw Circuit Court

LC No. 02-000462-FH

Before: Cooper, P.J., and O'Connell and Fort Hood, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendant's motion to suppress evidence. We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The police obtained information from an anonymous source that narcotics transactions were taking place in defendant's motel room. The police entered defendant's room pursuant to a search warrant for the purpose of arresting Claude Dennis, for whom a warrant was outstanding. While in the room the police observed narcotics in plain view on a coffee table. The police secured a second search warrant and searched defendant's room. Defendant was charged with possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v), and maintaining a drug house, MCL 333.7405(1)(d). The trial court granted defendant's motion to suppress the evidence, finding that the search warrant was insufficient to establish probable cause because it did not contain facts upon which the magistrate could base a finding that the anonymous informant was reliable and credible. The trial court concluded that the police obtained the search warrant for the person of Dennis as a pretext for entering defendant's room.

We review a trial court's findings of fact on a motion to suppress for clear error, and the ultimate decision de novo. *People v Darwich*, 226 Mich App 635, 637; 575 NW2d 44 (1997).

A magistrate's finding of probable cause must be based on all the facts related in the affidavit submitted in support of the search warrant. MCL 780.653. The affidavit may be based on information supplied to the affiant by a named or an unnamed person. *Id.* If the person is named, the affidavit must contain affirmative allegations from which the magistrate could conclude that the person spoke with personal knowledge of the information conveyed to the complainant. MCL 780.653(a). If the person is unnamed, the affidavit must contain affirmative allegations from which the magistrate could conclude that the person spoke with personal

knowledge and either that the person is credible or that the information is reliable. MCL 780.653(b).

A police officer may seize an item in plain view if the officer is lawfully in a position to view the item and the item's incriminating character is immediately apparent. *People v Champion*, 452 Mich 92, 101-102; 549 NW2d 849 (1996). An item is obviously incriminatory if probable cause to seize the item exists without a search warrant. Exigent circumstances are not required for seizure of the item. *Id.*

We reverse the trial court's order granting defendant's motion to suppress the evidence and remand for reinstatement of the charges against defendant. The trial court concluded that the affidavit for the first search warrant was insufficient because it did not contain sufficient information from which the magistrate could conclude that the anonymous informant was credible or supplied reliable information regarding narcotics transactions in defendant's room. However, the search warrant at issue was prepared for the purpose of entering defendant's room to arrest Dennis. The named affiant, a police officer, stated that he conducted surveillance and observed Dennis enter defendant's room. A police officer is a presumptively reliable affiant, *People v Ulman*, 244 Mich App 500, 509; 625 NW2d 429 (2001), and the affidavit contained facts from which the magistrate could conclude that the officer spoke with personal knowledge. The warrant was sufficient for the purpose for which it was prepared. MCL 780.653(a).

The trial court's conclusion that suppression was required because the police entered defendant's room on a pretext, i.e., to arrest Dennis, was erroneous. If an officer's conduct is objectively valid, his subjective intent is irrelevant. *People v Haney*, 192 Mich App 207, 210-211; 480 NW2d 322 (1991). In this case, the officers entered defendant's room pursuant to a valid search warrant, and discovered the narcotics in plain view. The trial court erred by granting defendant's motion to suppress the evidence. *Champion, supra; Darwich, supra.*

Reversed and remanded. We do not retain jurisdiction.

/s/ Peter D. O'Connell  
/s/ Karen M. Fort Hood